

Remarks

In view of the following remarks, favorable reconsideration of the outstanding office action is respectfully requested. Claims 1 – 50 remain in this application.

1. Drawings

The Examiner requests that formal drawings be provided by the applicants in accordance with 37 C.F.R. 1.121(d) because originally filed Figures 1 – 4 employ half-toning techniques that allegedly do not provide clear illustration of the invention. A copy of formal drawings are attached hereto for the Examiner's convenience.

The Examiner has objected to the drawings under 37 C.F.R. 1.83 (a) because they fail to show the first spring element "in tension in the closed position" and "in compression in the open position." The applicants respectfully point out that it is impossible to provide drawings that show a spring moving between an "in-tension" position and an "in-compression" position unless the applicants provide the Examiner with a motion picture of the first spring element in action. On the other hand, contrary to the Examiner's assertion that the movement of a spring is "essential for a proper understanding of the invention," anyone with a scintilla of skill in the art will understand how a spring moves between a state of tension and compression.

The applicants respectfully request that the objection to the drawings be withdrawn.

2. Claim Objections

The Examiner has objected to claims 6 – 9 and 12 – 15 because the claim language recites a "first shutter blade" and a "second shutter blade." The applicants respectfully point out that they are entitled to be their own lexicographers. See *In re Paulsen*, 31 USPQ2d 1671, 1674 (Fed. Cir. 1994). The terms shutter blade is introduced in the portion of the specification that corresponds to Figure 6. Accordingly, the applicants respectfully request that the Examiner withdraw his objection to claims 6 – 9 and 12 – 15.

3. Allowed Claims/Subject Matter

Applicants note with appreciation the Examiner's allowance of claims 26 - 46. The applicants also note with appreciation that the Examiner has indicated that the subject matter of claims 3 – 4 are patentable, and would be allowable if rewritten in independent form.

4. § 112 Rejections

The Examiner has rejected claims 5 – 19 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as his invention because the Examiner is under the opinion that “applicants meant to indicate that the first and the second slide assemblies slide together when the protective shutter mechanism is moved from a locked position into an unlocked position.”

Applicants respectfully point out that they have wide latitude in claiming their invention and the Examiner does not have the authority to constrain the applicants in their choice of language. See Section 2 above. Applicants respectfully traverse the Examiner’s rejection and assert that claim 5 is not indefinite. As the Examiner noted, “the open position” and “the closed position” have positive antecedent basis in claim 1 and are explicitly defined in the specification. The first assembly and the second assembly have positive antecedent basis in claim 5 and are also defined in the specification.

Applicants respectfully traverse the Examiner’s rejection of claim 10 and claim 11. With respect to the Examiner’s comments, the Examiner appears to be trying to read something into the claim that is not there – neither claim 10 nor claim 11 recite any change in the state of the first spring element. There is no requirement that they have to. Claim 10 simply states that the first spring element is in tension in the closed position. Claim 11 states that the first spring element is in compression in the open position. Both claim recitations particularly point out and distinctly claim the subject matter which the applicant regards as his invention.

The applicants respectfully request that the Examiner withdraw his rejection of claims 5 – 19 under 35 U.S.C. § 112, second paragraph.

5. § 103 Rejections

A. The Examiner has rejected claims 1, 23 – 25, and 47 - 48 under 35 U.S.C. § 103 as being unpatentable for obviousness over U.S. Patent No. 4,867,694 to Short in view of U.S. Patent No. 3,845,234 to Brenner.

Claim 1 is directed to a protection device including line terminals coupled to a power source disposed in an electric power distribution system. The protection device is configured

to protect a portion of the power distribution system from at least one fault condition. The device includes a receptacle member including a housing and a cover assembly. The cover assembly includes receptacle openings configured to accommodate plug contact blades. Receptacle contacts are disposed in the housing and coupled to the line terminals to thereby establish an electrical connection between the receptacle contacts and the line terminals, each receptacle contact being in communication with a corresponding receptacle opening. A protective shutter mechanism is integrated into the housing. The protective shutter mechanism being movable from a closed position to an open position upon insertion of the plug contact blades. The protective shutter mechanism is substantially sealed in the closed position and not movable from the closed position to the open position upon insertion of an object into one receptacle opening, whereby the object is prevented from making contact with the corresponding receptacle contact.

Claim 47 is directed to a protection device including line terminals coupled to a power source disposed in an electric power distribution system. The protection device is configured to protect a portion of the power distribution system from at least one fault condition. The device includes a receptacle housing including receptacle openings configured to accommodate plug contact blades. Receptacle contacts are disposed in the housing, each receptacle contact being in communication with a corresponding receptacle opening. A protective membrane is disposed in the housing and including a sealable hole for each receptacle opening. Each sealable hole is movable from a closed position to an open position upon insertion of a plug blade into the corresponding receptacle opening, the sealable hole being substantially sealed in the closed position.

Short is directed to an electrical receptacle that includes a shutter mechanism configured to block the insertion of a foreign object through one of the receptacle slots. This mechanism moves between a closed/latched position and an open position. Access to the contacts requires the slides first be unlatched by a blade penetrating one receptacle slot and then cammed to the open position by another blade penetrating the other receptacle slot. Of course, this is accomplished by inserting a standard electrical plug into the receptacle.

Brenner is directed to an exterior mounted gasket that is clamped between a receptacle and a cover plate. The gasket extends over the receptacle sockets. The gasket is installed by removing the cover plate, inserting the gasket between the back of the cover plate and the

front of the receptacle, inserting a screw through the cover plate and a hole in the gasket, and tightening the screw. ed.

According to the **MPEP 2143**, three basic criteria must be met to establish a *prima facie* case of obviousness. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

i.) The prior art references do not teach or suggest all the claim limitations.

Claim 1 is directed to a protection device *configured to protect a portion of the power distribution system from at least one fault condition*, the device including a protective shutter mechanism that is movable from a closed position to an open position upon insertion of the plug contact blades. The Examiner has not provided any evidence that either Short or Brenner teach this feature. Claim 1 also recites “a protective shutter mechanism *integrated into the housing...substantially sealed in the closed position and not movable from the closed position to the open position upon insertion of an object...*” The Examiner admits that Short does not teach or suggest this claim element. The applicants respectfully point out that the Examiner does not point out where Brenner teaches or suggests the claimed element either – Brenner does not include a protective shutter mechanism integrated into a housing that is sealed in the closed position and not movable from the closed position to the open position upon insertion of an object. Brenner merely discloses a gasket that is placed over an exterior portion of the receptacle. Thus, the Examiner does not show where Short or Brenner, whether taken alone or in combination, teach or suggest a protection device that includes the recited protective shutter mechanism, integrated into the device housing.

Indeed, if Short and Brenner were combined, the combined references would not arrive at the claimed invention. Instead of having a *protective shutter mechanism integrated into a housing that is sealed in the closed position and not movable from the closed position to the open position upon insertion of an object*, the combination would simply be Short's

safety electrical receptacle with a gasket disposed between the front face and the cover plate. In fact, if a user were to insert an object into Brenner's exterior mounted gasket, Short's shutter mechanism might remain closed, but it would not be sealed.

Claim 47 is directed to a protective device *configured to protect a portion of the power distribution system from at least one fault condition*, and includes a protective membrane disposed in the housing and includes a sealable hole for each receptacle opening, each sealable hole being movable from a closed position to an open position upon insertion of a plug blade into a corresponding receptacle opening. The Examiner admits that Short does not teach a protective device configured to protect a portion of the power distribution system from at least one fault condition, sealable holes that are *movable from a closed position to an open position upon insertion of a plug blade* into a corresponding receptacle opening, or a protective membrane disposed in the housing. As noted above, Brenner teaches a gasket that is placed over an exterior portion of the receptacle. Thus, the Examiner does not show where Short or Brenner, whether taken alone or in combination, teach or suggest a protection device, or any wiring device that includes sealable holes that are movable from a closed position to an open position, or a protective member disposed in a housing, as recited in claim 47.

ii.) There is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.

The Examiner opines that one of ordinary skill in the art would be motivated to combine Short and Brenner because Brenner teaches that an exterior mounted gasket will protect a receptacle from foreign materials. While the statement may be true on its face, it is a "straw-man" argument in that it misstates the subject matter of claim 1 and claim 47 in order to facilitate the rejection. In fact, it is irrelevant with respect to the question of whether one skilled in the art would be motivated to provide an exterior gasket over a shuttered safety receptacle. Indeed, Brenner makes no such representation. It must be kept in mind that one of the stated purposes of Short is to provide a shutter that only opens when an actual plug is inserted into the receptacle. One skilled in the art would arguably not be motivated to make the combination because, as noted above, if a user were to insert an object into Brenner's

gasket, Short's shutter mechanism might remain closed, but it would not be sealed, defeating the very purpose of Brenner.

Accordingly, claims 1, 23 – 25, and 47 - 48 are patentable under 35 U.S.C. § 103(a). The applicants respectfully request that the rejection of claims 1, 23 – 25, and 47 - 48 under 35 U.S.C. § 103 be withdrawn.

B. The Examiner has rejected claims 2, 20 – 22 and 49 - 50 under 35 U.S.C. § 103 as being unpatentable for obviousness over Short in view of Brenner and further in view of U.S. Patent No. 6,587,319 to Finlay.

Claim 49 is directed to a protection device for use in an electric power distribution system. The protection device is configured to protect a portion of the power distribution system from at least one fault condition. The device includes a housing assembly that includes at least one aperture. A protective membrane is integrated into the housing assembly and includes at least one sealable hole. A fault detection circuit is disposed on a circuit board. The fault detection circuit is configured to detect at least one fault condition and provide a fault detect signal in response thereto. Interrupting contacts are coupled to the fault detection circuit. The interrupting contacts are configured to disconnect the at least one receptacle from the electric power distribution system in response to receiving the fault detect signal. A manually operable assembly corresponds with the at least one aperture. The assembly includes an arm that passes through the sealable hole. The sealable hole and the arm are substantially sealed by the protective membrane.

Short and Brenner were discussed above in detail. Finlay is directed to an AC power line protection device which includes miswiring protection that has an indicator lamp which lights when the device is in the tripped condition and turns off when the device is reset. If the device is miswired after having been wired properly, the indicator lamp does not light when the device is tripped, and so provides a supplemental indication of miswiring. The indicator lamp is powered via the hot line bus bar of the interrupting contacts to meet safety standards.

i.) The prior art references do not teach or suggest all the claim limitations.

The Examiner fails to show where either Short, Brenner, or Finlay, whether taken alone or in combination, teach or suggest a *protective membrane integrated into the housing*

assembly and including one sealable hole as recited in claim 49. The Examiner fails to show where either Short, Brenner, or Finlay, whether taken alone or in combination, teach or suggest a *manually operable assembly including an arm that passes through the sealable hole*, as recited in independent claim 49.

Claims 2 and 20 – 22 depend from claim 1, and the Examiner makes no representation that Finlay remedies the deficiencies of Short and Brenner with respect to claim 1. As such, claims 2 and 20 – 22 are allowable by virtue of their dependency from claim 1. Claim 50 depends from claim 49 and is, therefore, allowable by virtue of its dependency from claim 49. However, the dependent claims are allowable in their own right. Claim 50, for example recites a plurality of sealable holes disposed in the protective membrane integrated in the housing. The Examiner does not show where any of the references teach or suggest this claim limitation.

ii.) There is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.

The Examiner states that it would have been obvious to one of ordinary skill in the art at the time the invention was made to have an arm “that would connect with the test button.” Once again, the Examiner presents a straw-man argument that does not accurately reflect the claimed invention. One of ordinary skill in the art will understand that reset and test mechanisms may be constructed to include a button connected to an actuator arm. However, this is not the subject matter recited by the claimed invention. Claim 49 is directed, in part, to *an arm that passes through the sealable hole...substantially sealed by the protective membrane disposed in the housing*. Neither Short, Brenner, nor Finlay, whether taken alone or in combination teach or suggest this feature. Accordingly, there can be no suggestion or motivation to combine these references in the manner suggested by the Examiner.

Accordingly, the applicants respectfully assert that claims 2, 20 – 22 and 49 - 50 are allowable under 35 U.S.C. § 103 and respectfully request that rejection be withdrawn.

6. Conclusion

Based upon the remarks and papers of record, Applicants believe the pending claims of the above-captioned application are in allowable form and patentable over the prior art of record. Applicants respectfully request reconsideration of the pending claims 1 – 50 and a prompt Notice of Allowance thereon.

Applicants believe that no extension of time is necessary to make this Response timely. Should Applicants be in error, Applicants respectfully request that the Office grant such time extension pursuant to 37 C.F.R. § 1.136(a) as necessary to make this Response timely, and hereby authorizes the Office to charge any necessary fee or surcharge with respect to said time extension to the deposit account of the undersigned firm of attorneys, Deposit Account 50-1546.

Please direct any questions or comments to Daniel P. Malley at (607) 330-4010.

Respectfully submitted,

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